

ASHTABULA CITY COUNCIL COMMITTEE REPORT

NAME OF COMMITTEE: SAFETY FORCES

DATE: Wednesday, October 20, 2010

TIME & PLACE OF MEETING: 8:00 a.m. – Municipal Building 2nd Floor Conference Room

MEMBER(S) PRESENT: Mr. Joseph Rose (Chair/Ward 1 Councilor), Ms. Betty Kist (Vice President)
Mr. James Trisket (Ward 5)

MEMBER(S) ABSENT: Mr. Charles Brockway (President/Ex-Officio Member)

STAFF PRESENT: Fire Chief Ronald Pristera, Police Chief Robert Stell
Clerk of Council LaVette Hennigan

SCHEDULED VISITORS: NONE

VISITORS PRESENT: Ward 3 Councilor Ann Stranman, Mr. Dick Charles, City Taxicab

MEDIA PRESENT: NONE

REPORT OF BUSINESS CONDUCTED

Safety Forces

1. Fire Chief's Report

The fire damaged structure at 844 West Prospect Circle (behind KenRay Battery) was razed.

Questions for the Fire Chief

a. Commercial Structures

The Chair asked if a commercial structure's "commercial" status can be removed if the structure has not been used for more than 5 years as such. The Chief said his understanding of the Building Code is that the owner would have to file a change of use. "Once the building is deemed commercial, it is always deemed commercial, unless they file a change of use." There are situations not addressed by the Building Code. "It's not about what's actually happening in the building; it's about what the building was intended to be." He cited the East 6th Street Café and former Carlisle structures as perfect examples. He said he could spend hours telling what the owner of the Carlisle building "put us through". He later commented on the Café's owner being in contempt of court, with no jail space to enforce the issue. And said, if fined the will plead no funds to pay.

The Chair wanted to know if Council could pass legislation allowing a commercial structure's use to be changed if the structure is not used as commercial for a certain amount of time. The Chief said he believes in order for the City to enforce Building Code related issues, it would have to have a certified commercial building department. He said it would be a large task; that we would have to have someone on staff as a qualified building official, which is not easy. He said there is enforcement through property maintenance, health and sanitary and other sections of ordinances that may be used.

b. City Fire Department's Rescue Squad

Later in the meeting the Ward 5 Councilor asked how often the squad is in action. The Chief replied:

- * Yesterday they went on their 60th call of the year;
- * Billing is being processed;
- * The department is close to its 100th call for 2009 and 2010 combined;
- * \$58,000 was billed; \$14,000 was collected;
- * Of the 100 patients, 90 are Medicare/Medicaid, or self insured, and their costs are written off because the ordinance says if you are a City resident or work for a company that pays City income tax you are not billed – you do not pay anything out of pocket – the insurance company is directly billed; residents who are self-insured and do not work for a local company are not billed;
- * The patient demographic is different than the norm;
- * The department is collecting about forty-five (45) cents on the dollar; and
- * The service is working well given money is not the reason the service is provided.

2. Police Chief's Report

a. Marx Radio System

- * The Solicitor sent a letter to the firm's attorney requesting the company make things right (the radios have not worked properly for some time) or return the purchase price;
- * The Solicitor has received "limited response from the attorney"; and
- * The matter remains in the Solicitor's hand.

b. Proposed HazMat Fingerprinting Provider

The Chief reported:

- * He received all the Ward 3 Councilor's information (pages 5-9 attached) regarding the possibility of the City's Police Department becoming certified to provide hazmat fingerprinting;
- * He is conversing with Geneva-on-the Lake (who used to be the closet provider but not longer provides the service) to determine the viability of offering the service;
- * The closet provider is in Akron, Ohio;
- * The Chief is looking into the logistics and feasibility of his department providing the service;
- * The department presently fingerprints jailed persons; the same machine is not able to be used for the proposed hazmat purposes;
- * There are no grant dollars available for the purchase of a fingerprinting machine for hazmat purposes; Permanent Improvement funds would have to be used to purchase the equipment, which when last purchased cost about \$800.00 (the equipment last for many years);
- * There would not be much revenue received from this activity, but would be enough to pay for the equipment; the revenue would go to the City's General Fund; and
- * He is in favor of being the provider if revenue can be raised without causing a financial and manpower hardship.

The Committee liked the idea of being a provider; suggested the services the City would provide would be used more than was used in Geneva-on-the Lake due to our location; and given the information provided by the Ward 3 Councilor, it would take limited resources to start up.

Later in the meeting the Ward 3 Councilor reported her conversations with Geneva-on-the Lake resulted in being told they had one day a week for this activity, with a few applicants participating. However, because the City of Ashtabula is the largest City in Ashtabula County, is more accessible, and because a lot of local companies require hazmat licenses, we might get more activity.

It was also noted that each applicant pays a license fee of \$89.25 to the State. The State sends a set amount of \$8.00 (which may not be adjusted), to the municipality handling the fingerprinting. No credit card capability is required because money orders are the only accepted payment method.

ACTION: The Police Chief will continue to research the possibility of providing the service in the City of Ashtabula, and will report back to the Committee whether it is feasible for our Police Department to offer hazmat fingerprinting service.

c. Vehicle Towing/Impounding

The Police Chief reported:

- * When the City confiscates a vehicle, it is towed to a storage facility and remains there until the court releases it;
- * The daily impound fee is \$20.00 to \$35.00;
- * If the vehicle is forfeited the tow company sends the City the tow and storage bill;
- * At present, if the Police Department believes a vehicle is going to be forfeited they will store it on City property until released by the court;
- * Previously Municipal Court Judge Camplese had an issue with the daily storage fee the City was charging because he believed the fee to be excessive; and
- * The Police Department would like to set a storage fee of \$25.00/day for outside storage, and; \$35.00/day for indoor storage. This is consistent with what tow companies charge, and would have to be enacted by legislative action.

ACTION: Mr. Trisket moved, Ms. Kist seconded, to allow the Police Department to store confiscated and/or forfeited vehicles on City property at the rate of \$25.00 per day for outside storage, and \$35.00 per day for indoor storage, until the court case is complete and the court releases the vehicle; motion CARRIED.

3. “Hands-free Communication Devices Permitted while Operating Motor Vehicle

- * The Committee reviewed the previous Codified Ordinance Section 331.34 & Ordinance No. 2010-59 (pages 10-11 attached), and current Codified Section 331.34 and Ordinance No. 2010-60 (page 12-13 attached), and the proposed amended language (page 14 attached) which seeks to prohibit the use of hand held wireless devices;
- * Mr. Charles said he agrees with the prohibition of text messaging and personnel cellular phone use while driving, but wanted to ensure that the prohibition will not impede services provided by City Taxicab & Transfer Company. He reported they are certified with the Ohio Transportation Medical Board; therefore provide medical and ambulant transport services, for which non-hand held devices are used;
- * The Ward 5 Councilor said ambulant transport service is different than the standard taxicab service;
- * The Ward 5 Councilor made it clear that his desire from the onset of this discussion months ago was to ensure “hands free” usage of communication devices is permitted, and likened it to a vehicle operator communicating with a passenger;

Ashtabula City Council Safety Forces Committee
Wednesday, October 20, 2010

- * The Ward 5 Councilor made it clear that his desire is to eliminate the activity of “fumbling with handsets”; that the use of communication devices needs to be “hands free”, asked how much need is there really to talk on phone while operating a vehicle, and believes hand held cellular and wireless devices are “taking attention away” from the vehicle operator’s attention; he said the City of Ashtabula is not very big and asked if it is really necessary for most people to talk on the phone while driving within the City, and answered his question with, “not much”;
- * Various hands-free devices were discussed;
- * The Ward 3 Councilor reported Brooklyn, Ohio is usually on the cutting edge of things, and that they were the first to pass a seat belt law, and to prohibit hand-held communication devices while driving;
- * The Committee’s intent is not to prohibit the use of hand held communication devices commonly used by truckers, delivery operations, and taxicab drivers; and
- * The Committee was unanimous in the decision to move forward with prohibiting the use of wireless communication devices while operating a motor vehicle inside City limits.

ACTION: Mr. Trisket moved, Ms. Kist seconded to repeal Ordinance No. 2010-60 for the purpose of including City Solicitor Franklin’s proposed amendment draft along with the Committee’s insertion of hand held and keyboard device in section (c) and a definition of keyboard device to be placed at (d)(3); motion CARRIED. (See page 14 attached for Committee’s insertions)

Ms. Kist moved, Mr. Trisket seconded to adjourn the meeting at 9:27 a.m.
Scribe: LaVette E. Hennigan, MMC, Clerk of Council

From: Councilor Stranman
Date: October 16, 2010
Time: 12:25 p.m.
RE: TSA Online Training Instructions

Chief Stell,

A Mr. Doug Bacon called me in response to the e-mail below that I sent to the TSA (Transportation Safety Administration)...it is VERY easy to become a fingerprinting facility, will not cost us anything, and we'll actually receive a small amount for doing it (\$8 per set of prints taken). All we need is an officer(s) to take an online test (it's free and only takes about an hour to complete) and fill out info. in a packet they'll send to us to get us set up. THEY will provide us with prepaid envelopes to overnight the fingerprints and fingerprints can be done on the old fashioned cards OR if we do digital fingerprinting, we can just print them out. It was indicated we should plan on doing one day a week/by appointment, so we can send all the prints for a particular week in one envelope.

Mr. Bacon sounded VERY excited that we're considering becoming a fingerprinting facility as he is aware Geneva-on-the-Lake is no longer doing it, leaving the nearest facility in Akron, and Akron is one of the busiest facilities IN THE COUNTRY, so if we were to start doing it, it would provide some relief to that facility.

I'll be forwarding an e-mail I received from Mr. Bacon will additional information.

Let me know if you need ANY further assistance from me...I'd even be willing to help you guys fill out the paperwork in the packet, if it would mean getting this program off the ground.

Have a good day/week!

Ann

-- On Fri, 10/15/10, Chief Robert D. Stell <rstell@ashtabulapolice.com> wrote:

> From: Chief Robert D. Stell <rstell@ashtabulapolice.com>
> Subject: Re: Becoming a Haz Mat Fingerprinting Provider
> To: "Ann Stranman" <annpoetry1@yahoo.com>
> Date: Friday, October 15, 2010, 10:35 PM Ann,
>

> I left a message with our Records Dept. They handle the
> fingerprinting, when it's not related to an arrest such as
> pre-employment, etc...We're going to look into this. Thanks
> Chief Stell

> ----- Original Message ----- From: "Ann Stranman" > <annpoetry1@yahoo.com>
> To: <qualamiya.hall@associates.tsa.dhs.gov>
> Cc: "LaVette Hennigan" <lavetteh@cityofashtabula.com>; "Chief Rob
> Stell" <rstell@cityofashtabula.com>; > <acantagallo@cityofashtabula.com>;
> "Joseph Rose" <jrose@cityofashtabula.com>; "Chuck Brockway"
> <brok@windstream.net>; "James M. Trisket" <this@roadrunner.com>;
> <Annpoetry1@yahoo.com>

Sent: Friday, October 15, 2010 9:43 AM

Subject: Becoming a Haz Mat Fingerprinting Provider

I understand from the TSA's website that you are the TSA's representative for the State of Ohio. I am on the City Council for the City of Ashtabula and, in that capacity, am trying to obtain information as to HOW our Police Dept. would go about becoming a fingerprinting facility for the Hazmat endorsement process for CDL holders in our area. Geneva-on-the-Lake's Police Department, which is close to Ashtabula, previously provided this service, but the officer in charge of the program is on leave and, per

the woman I spoke to, is not expected to return any time soon. She indicated it was her believe the process to become a fingerprinting facility was relatively simple and entailed an officer taking a test to become certified to do the fingerprinting. She also indicated the fingerprinting itself does not require any special equipment and that they used the cards to do it. As the nearest fingerprinting facility is now in Akron, Ohio, which is over an hour's drive from here, I feel it would be a valuable and appreciated service for our Police Department to provide to residents who hold a CDL in our entire County, as well as the surrounding counties. I am trying to make the process of becoming a provider as easy as possible for our Police Department by doing the leg work to find out exactly what they need to do to get the ball rolling on this. I hope you can assist me in this endeavor. I will look forward to hearing back from you soon.

Ann Stranman, Ashtabula City Council

Annpoetry1@yahoo.com Phone: 440-992-4295

FROM: Councilor Ann Stranman
DATE: Saturday, October 16, 2010
TIME: 12:40 p.m.
RE: Becoming a Haz Mat Fingerprinting Provider
Chief Stell & City Manager Cantagallo,

I received the e-mail below and attachments from Mr. Doug Bacon with instructions and information on becoming a Hazmat Fingerprinting Facility--please review and advise at your earliest convenience. I'm copying Council President Brockway and City Council's Safety Forces Committee Chair, Mr. Rose, so that they are aware that I've obtained this information and that you are looking into this. I don't think this would require any action on the part of City Council, since it costs nothing and the operations of the Police Department fall under the City Manager, but since it would be providing a service to the public, they still might be interested in knowing we may be doing this in the near future--and in case any action is required by Council or the Safety Forces Committee, they'll be aware of it from the get go. I'm also copying the City Auditor as we may need to set up a line item/account at some point under which to deposit the \$8 fee per set of fingerprints we do.

I will look forward to receiving feedback on this in the near future--and I'm available to assist in any way I can with getting this set up.

Thank you,
Ann Stranman
Ward 3 Councilor

--- On Fri, 10/15/10, Bacon, Doug <DBacon@LIID.COM> wrote:

From: Bacon, Doug <DBacon@LIID.COM>
Subject: FW: Online TSA Training instructions, User Access, and NDA form
To: "annpoetry1@yahoo.com" <annpoetry1@yahoo.com>
Date: Friday, October 15, 2010, 3:37 PM

Ann,

I have attached the necessary forms- Each trainee/officer has to complete the TSA online training (instructions below) and complete an attached NDA (do not forget to initial the 3 boxes on page 1), and a User Access form with the Challenge question (#7) and response (What is my dog's name? Fido)(do not answer any questions below #7), and fax all the copies to Ashley Stafford at (615) 871-0845, to become certified. Every person/officer who fingerprints a Hazmat driver has to be certified through this program before they process a driver.

Everyone who works with the HazPrint program must view and complete both parts of the online training (the Security Awareness and the Privacy Training) to attain certification and to be issued a password and key fob. Everyone must undergo the training yearly to retain his or her eligibility. Anyone who does not complete the training will no longer be qualified to fingerprint HazPrint applicants.

Please note the training can be viewed at any time on a standard computer in your office, home or library.

Please follow these instructions exactly:

- Select Explorer as your browser (do not use Firefox)
- Enter this address: <http://training.logistasolutions.com>

❖ Note: Do not click on this link – it will take you into Firefox. Open Explorer and then enter this address.

- If a popup advises that you need to upgrade Adobe- Upgrade first.
- User name: training
- Password: training
- You will be prompted to allow pop-ups. Click on OK
- On the Welcome Page screen, click on BEGIN
- You are now at what will be referred to later as the “Home Page”.
- On the Home Page screen, scroll down and click on “Launch New Information Systems Awareness”

NOTE-If the first screen remains BLACK and does not load the beginning picture, this usually means that FLASH PLAYER is not installed on your computer. Go to www.adobe.com/products/flashplayer/ for a free download.

- If you need to leave your training for a while, you can click on PAUSE and RESUME later
 - ❖ If you have to interrupt your training and come back to find you’re on the Home Page again, click on “Continue Information Systems Awareness”
- Please note that speakers are optional; all dialog is provided in the text box at the bottom of the screen
- Follow all instructions on each page; click on the forward button to continue the lessons
- At the end of the Security Awareness portion of the training you will be able to print a course completion certificate. (If you are unable to print the certificate, just go to EXIT.)
- After printing your certificate, click on EXIT
- You will be asked if you are sure you want to exit, answer YES.
- You are now back at the Home Page.
- Click on NEXT in the lower left corner at the bottom of the screen, to go to the Privacy Training course
- Below the dialog box which says, “Privacy Act”, click on OK
- Go through each page of the training, using the left and right buttons located in the upper right hand toolbar and answer each question
- At the end of the Privacy Act portion click EXIT which is located in the top tool bar directly above the words “Privacy Act Training”.
- You will be asked if you really want to exit- answer YES.
- Now you will be at what appears to be the beginning of the Privacy lesson again- Do Not click OK-

- Scroll to the upper left corner and click NEXT.
- The 3 bonus questions will come up for you to answer.
- Click on NEXT
- At the end of this training there is an email confirmation of completion of both the Security and Privacy Training.
- Type in your name and site location.
- Enter your own, or your office's, email address for your records.
- Logista will be able to see that you have completed your training.
- After you click "Submit" you will be returned to the Home Page- you are done with the training, so just exit out.

Thanks, *Doug*

Douglas J. Bacon
Regional Manager, TSA HazPrint
L1 Enrollment Services Division

15 Century Blvd, Suite 500Nashville, TN 37214

Nashville office 615-871-0522

cell 612-840-3623, fax 515-832-3738

dbacon@L1id.com

(PREVIOUS LEGISLATION)

CODIFIED ORDINANCE SECTION 331.34

**FAILURE TO CONTROL; WEAVING; FULL TIME AND
ATTENTION**

- (a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.
- (b) No person shall operate a vehicle in a weaving or zigzag course unless such Irregular course is necessary for safe operation or in compliance with law.
- (c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.
- (d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

ORDINANCE NO. 2010-59

AN ORDINANCE REPEALING, IN ITS ENTIRETY, CODIFIED ORDINANCE SECTION 331.34 ENTITLED "FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION"

WHEREAS, the daily operations of the City of Ashtabula and the Office of the City Manager require the enactment of this legislation; and,

WHEREAS, it is necessary to safeguard the public peace, health and safety;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Ashtabula, Ohio:

SECTION 1. That Codified Ordinance Section 331.34, entitled "Failure to Control; Weaving; Full Time and Attention", a complete copy of which is attached hereto, shall be, and the same is hereby, repealed in its entirety:

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: JUNE 7, 2010

Charles P. Brockway
President of Council

Vote:

	Yea	Nay
Brockway:	<u> X </u>	___
Kist:	___	___
Rose:	<u> X </u>	___
Pugliese:	<u> X </u>	___
Stranman:	<u> X </u>	___
Lattimer:	___	<u> X </u>
Trisket:	<u> X </u>	___

ATTEST: _____
LaVette E. Hennigan
Clerk of Council

APPROVED: _____
Anthony J. Cantagallo
City Manager

Approved as to form and correctness this 7TH day of JUNE, 2010.

Michael Franklin, City Solicitor

(legislation requests & drafts/2010/2010-59 repeal co 331.34)

ORDINANCE NO. 2010-60

**AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE SECTION 331.34
ENTITLED "FAILURE TO CONTROL; WEAVING; FULL TIME AND
ATTENTION"**

WHEREAS, the daily operations of the City of Ashtabula and the Office of the City Manager require the enactment of this legislation; and,

WHEREAS, it is necessary to enact legislation prohibiting texting while driving within the City of Ashtabula in order to safeguard the public peace, health and safety;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Ashtabula, Ohio:

SECTION 1. That Codified Ordinance Section 331.34, entitled "Failure to Control; Weaving; Full Time and Attention", a complete copy of which is attached hereto, shall be, and the same is hereby, enacted;

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: JUNE 7, 2010

Charles P. Brockway, President of Council

Vote:

	Yea	Nay
Brockway:	<u> X </u>	___
Kist:	___	___
Rose:	<u> X </u>	___
Pugliese:	<u> X </u>	___
Stranman:	<u> X </u>	___
Lattimer:	___	<u> X </u>
Trisket:	<u> X </u>	___

ATTEST: _____

LaVette E. Hennigan
Clerk of Council

APPROVED: _____

Anthony J. Cantagallo
City Manager

Approved as to form and correctness this 7TH day of JUNE, 2010.

Michael Franklin, City Solicitor

(legislation requests & drafts/2010/2010-60 enact new co 331.34)

**331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND
ATTENTION**

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle, including but not limited to refraining from such operation while composing, sending or reading text messages using a wireless handset while driving a motor vehicle in the City of Ashtabula.

(d) As used in this section:

(1) “Text message” means a message sent or received via a process using wireless handsets. For the purpose of this section, an e-mail shall be considered a “text message.”

(2) “Wireless handset” means a portable electronic device capable of transmitting or receiving data in the form of a text message.

(e) Notwithstanding the provision of division (c), this Section shall not be construed to prohibit the use of a wireless handset inside a motor vehicle to compose, send or read a text message by:

(1) A driver using a wireless handset to contact any law enforcement, police officers, emergency services personnel, emergency medical technicians, or fire safety officials to report an emergency situation; or

(2) A driver using a wireless handset inside a motor vehicle while such vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle.

(f) Enforcement for this offense shall be primary.

(g) Penalty: Whoever violates this section shall be fined One Hundred Dollars (\$100.00) for the first offense, Two Hundred and Fifty Dollars (\$250.00) for a second offense, and no more than Five Hundred Dollars (\$500.00) for each subsequent offense.

(h) That the provisions of Section 331.34 (c) shall take effect thirty (30) days after the effective date of this ordinance.

(PROPOSED AMENDED LANGUAGE)

331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle, including but not limited to refraining from such operation in the City of Ashtabula, Ohio, while conversing via *hand-held* cellular telephone or other wireless device; or while composing, sending or reading text messages using a *hand-held* cellular telephone or other wireless device, *including keyboard device*.

(d) As used in this section:

(1) "Text message" means a message sent or received via a process using wireless handsets. For the purpose of this section, an e-mail shall be considered a "text message."

(2) "Wireless device" means a portable electronic device capable of transmitting or receiving voices and other sounds, or data in the form of a text message.

(3) "Keyboard device" means anything that provides texting/typing capabilities.

(e) Notwithstanding the provision of division (c), this Section shall not be construed to prohibit the use of a wireless handset inside a motor vehicle to compose, send or read a text message by:

(3) A driver using a cellular telephone or other wireless device to contact any law enforcement, police officers, emergency services personnel, emergency medical technicians or fire personnel to report or prevent a crime or an emergency situation; or

(4) A driver using a cellular telephone or other wireless device inside a motor vehicle while such vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle; or,

(5) A law enforcement officer or official, firefighter, EMT, paramedic, ambulance driver, or other safety forces member using a cellular telephone or other wireless device in the course of his or her duties.

(e) Enforcement for this offense shall be primary.

(f) The provisions of Section 331.34 (c) shall take effect thirty (30) days after the effective date of this ordinance.

(g) Penalty: Whoever violates this section is guilty of a minor misdemeanor for a first offense; for an offense within one year after a prior offense, the person is guilty of a misdemeanor of the fourth degree.